

REMARKS

Claims 11-18 were rejected under 35 USC § 112, first paragraph. Specifically, the Examiner objected to the terminology "untextured" in Claims 11 and 17, stating that they did not have support in the application as originally filed. The Applicant respectfully disagrees with this conclusion. Although the word per se does not appear in the originally filed specification, there was clearly no teaching of a texturing step and therefore the yarn therefore was disclosed as being an untextured yarn. The Board of Appeals acknowledged this on page 9 of their opinion where they stated "we therefore perceive no motivation, and the Examiner has suggested none, for eliminating the air texturing step from the Goineau process". Therefore, although the word was not explicitly used in the specification, it is clear that no texturing step was taught or included in the process of the invention. Therefore, it is believed that the specification as originally filed fully supports the word "untextured" since the yarn taught therein clearly does not include a texturing step. Therefore, it is requested that the rejection be withdrawn.

Claims 11-18 were rejected under 35 USC § 112, second paragraph, as being indefinite. Specifically, the Examiner objected to the terminology "low molecular weight" in Claims 11 and 17. It is noted that this is the first time this terminology has been objected to despite the extended prosecution and Board review. Applicant has submitted herewith a copy of a website article ("Polyester fibers" by Hegde et al.) outlining the history of polyester fibers. In paragraph 5.1 of that article, "low molecular weight PET" and "PET for industrial fibers" were discussed. It is therefore maintained that one of ordinary skill in the art would readily appreciate the meaning of "low molecular weight polyester POY", as evidenced, for example, by the "polyester fibers" article. Similarly, U.S. Patent Number 6,096,822 is entitled "Low Molecular Weight Polyester or Polyamide Composition and Color Concentrate for the Manufacture of Colored Polymers." Therefore, it is respectfully requested that the rejection be withdrawn.

Claims 11 and 15 were rejected under 35 USC § 103(a) as being unpatentable over Goineau (5,172,459) in view of "Textiles for Residential and Commercial Interiors". The Examiner states that "Goineau (5,172,459) teaches the invention as claimed including providing a bobbin of polyester POY multi-filament synthetic yarn (20, 26, 24), supplying said yarn to a heater (32), drawing said yarn in a draw zone with the draw ratio in the range of 1.8-2.3 as it "passes over the heater to fully orient the yarn and taking up the fully oriented yarn". The Examiner further states that the Textiles article "notes that texturing may decrease strength in filaments." From this the Examiner concluded that it would have been obvious at the time the invention was made to provide the oriented yarn as an untextured, fully oriented yarn rather than an air textured yarn in order to "avoid any possibility of reducing strength which may occur with texturing." Applicant respectfully disagrees with this characterization. As noted in the

Appeal Brief and in the Board of Appeal's response, the '459 patent is directed to a draw texturing process. There is no motivation, absent Applicant's instant disclosure, for removing the texturing step from the Goineau patent. In fact, to do so would destroy its very teaching. The Textiles article teaching that texturing may reduce strength in filaments would not motivate one of ordinary skill in the art to take a texturing process and remove the texturing step, to achieve Applicant's invention. It appears that the Examiner has impermissibly picked and chosen from the prior art in an attempt to reconstruct Applicant's process. Therefore, it is requested that the rejection be withdrawn.

Claims 12-14 and 16-18 were rejected under 35 USC § 103(a) as being unpatentable over Goineau (5,172,459) in view of "Textiles for Residential and Commercial Interiors" and further in view of Gorrafa. Specifically, the Examiner states that Goineau discloses a heater draw temperature of 140° C instead of 210° as claimed. However, the Examiner concludes that this 70° (i.e. 50%) increase in temperature is a simple optimization of the Goineau teaching. However, there is no motivation provided for taking a defined temperature in the '459 patent and increasing it by 50% absent teaching of Applicant's instant application. Furthermore, the claims at issue depend from independent claims, which are allowable for the reasons set forth above. The distinctions between the two are not mere optimizations of a single process; rather, one process is for a textured yarn, and the instant invention is directed to a process for achieved untextured industrial yarns from low molecular weight polyester POY multi-filament yarn.

With regard to the Examiner's arguments relating to definition of "industrial yarn", Applicant has submitted herewith an internet article entitled "PERP Program – New Report Alert" which referenced industrial PET fibers, along with the "Polyester Fibers" article referenced above. As noted, the term "industrial fiber" is commonly used in the art and has specific meaning within the industry. For example, the PERP article on page 5 references "high strength industrial PET fibers". This supports the ASTM standard definition already provided.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and a notice to that effect is earnestly solicited. Should the Examiner find that any issues remain outstanding following consideration of this Response, he/she is invited to telephone the undersigned in the interest of resolving such matters in an expedient manner.

Respectfully submitted,



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